

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF ARKANSAS
FAYETTEVILLE DIVISION

WILLIAM D. GARLAND

PLAINTIFF

v.

Civil No. 05-5131

RANDALL DENZER; and
SGT. FOSTER

DEFENDANTS

REPORT AND RECOMMENDATION OF THE MAGISTRATE JUDGE

William D. Garland filed this pro se civil rights action pursuant to 42 U.S.C. § 1983 on July 27, 2005. His complaint was filed in forma pauperis (IFP).

On January 27, 2006, defendants filed a motion for summary judgment (Doc. 25). On March 20, 2006, the undersigned entered an order (Doc. 28) directing Garland to complete, sign and return an attached questionnaire that would serve as his response to the summary judgment motion.

The plaintiff's response to the questionnaire was to be returned by May 22, 2006. To date, the plaintiff has failed to respond to the questionnaire. The court's order and attached questionnaire have not been returned as undeliverable. The order was mailed to the same address as the court's prior orders. Plaintiff has not informed the court of any change in his address. Plaintiff has not sought an extension of time to respond to the questionnaire or otherwise communicated with the court.

I therefore recommend Garland's claims be dismissed on the grounds he has failed to prosecute this action and comply with the order of the court. *See* Fed. R. Civ. P. 41(b). **The parties have ten days from receipt of the report and recommendation in which to file**

written objections pursuant to 28 U.S.C. § 636(b)(1). The failure to file timely objections may result in waiver of the right to appeal questions of fact. The parties are reminded that objections must be both timely and specific to trigger de novo review by the district court.

DATED this 1st day of June 2006.

/s/ Beverly Stites Jones
UNITED STATES MAGISTRATE JUDGE